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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 6 December 2005 from the Permanent Representative of Mali to the United Nations addressed to the Chairman of the Committee

On instructions from my Government, I have the honour to attach the report of Mali on the implementation of Security Council resolution 1455 (2003) (see annex).

(*Signed*) Cheick Sidi **Diarra**
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Annex to the letter dated 6 December 2005 from the Permanent Representative of Mali to the United Nations addressed to the Chairman of the Committee

Report of Mali on the implementation of Security Council resolution 1455 (2003)

I. Introduction

1. There is to date no evidence and nothing specific to indicate the presence in Malian territory of Usama bin Laden, members of the Al-Qaida organization and the Taliban or individuals associated with them. No such individuals have been formally identified in our country; nor has the above-mentioned organization. Moreover, there is so far no proof that they are conducting activities in our country. Consequently, this network does not for the time being pose a threat to Mali or to our subregion.

On the other hand, armed individuals belonging to the Salafist Group for Preaching and Combat (GSPC) have for some time been active in the desert strip shared by Mali, the Niger, Mauritania and Algeria.

II. Consolidated list

2. The consolidated list prepared by the Committee established under resolution 1267 (1999) has been transmitted to the Judiciary, to all the territorial units of the Armed Forces and Security Forces (police, gendarmerie, national guard), to customs, to all financial institutions in Mali and to the diplomatic and consular missions of Mali abroad.

3. Mali has not given the Committee established under resolution 1267 (1999) any particular names of individuals and has not provided information in the context of the preparation of the list.

4. The Malian authorities have not identified inside the territory any designated individuals or entities. However, they have identified the Salafist Group for Preaching and Combat headed by "the Para".

This group, which was responsible for the taking of German hostages, has been active not only in Mali. In addition, it has no fixed location. Its members regularly travel between northern Mali and the frontier countries in this region. For the time being, they have left Mali, but there is no certainty that they will not return; this region is vast and difficult to monitor, because of the shortage of human and logistical resources in our country.

However, in cooperation with concerned Sahel countries, the United States Government is currently working on the Pan Sahel Initiative designed to strengthen the capacity of these countries' armed and security forces to avert any threat from Al-Qaida and to make the Sahel strip an area of stability.

5. Mali does not know and has not been informed of any names of individuals or entities associated with Usama bin Laden or members of the Al-Qaida organization or the Taliban that were not included in the Committee's list.

6. None of the individuals or entities referred to in the resolution has brought a lawsuit or engaged in legal proceedings against our country. No complaint or protest has been submitted.

7. As far as we know, no national or resident of our country appears on the Committee's list.

8. Article 116 of the Constitution of the Republic of Mali states that "upon publication, regularly ratified or approved treaties or agreements have an authority greater than that of the laws ..." Consequently, the counter-terrorism conventions, like other international agreements, may be applied directly by the national courts and tribunals.

Mali has already ratified all the conventions suppressing terrorism.

Act No. 01-079 of 20 August 2001 promulgating the Penal Code devotes a chapter to crimes and offences against public order. Articles 175 et seq. of this Act deal with association of wrongdoers and harbouring of wrongdoers.

Article 175, paragraph 1, of the Act states: "Any association, of any duration and with any number of members, and any arrangement for the purpose of preparing or committing an attack on persons or property shall constitute a crime against public order."

Paragraph 2 of the same article adds: "Any person who has knowingly joined an association or participated in an arrangement for the purpose specified in the above paragraph shall be punished by a prison term of five to twenty years and banishment for five to twenty years."

Article 176 of the same Act specifies: "Any person who has knowingly and deliberately abetted those responsible for crimes specified in article 175, by providing them with the instruments of the crime, means of correspondence, asylum, accommodation or meeting premises, shall be punished by a prison term of five to ten years."

Lastly, article 307 of the Act provides for the death penalty for the destruction using an explosive device of buildings, dwellings, dykes, roadways, ships, vessels, aircraft, vehicles, stores, building sites or their outbuildings, bridges, public or private thoroughfares, wells, hydraulic facilities and any other public utility works.

Similarly, this provision considers the depositing of an explosive devise with criminal intent on a public or private thoroughfare as attempted assassination and punishes it as such.

III. Financial and economic assets freeze

9. Malian legislation allows judges to take precautionary measures, including freezing of the assets of individuals and entities on the Committee's list.

Moreover, the provisions on money-laundering in articles 298 and 299 of the Penal Code also allow confiscation of the funds and other assets of such individuals, unless it is established that there is no link between those resources and the offence for which the individuals were sentenced.

In addition, the Malian Commercial Code, promulgated by Act. No. 02 of 27 August 1992, provides for the freezing of assets in its provisions concerning proceedings related to exchange control offences. This Act provides for judicial proceedings against any person violating the regulations on financial relations involving other countries, such as non-compliance with reporting or repatriation obligations.

10. As regards practical arrangements and administrative guidelines, the Committee's list has been transmitted to all establishments concerned with counter-terrorism measures, including banks and other financial institutions. In this connection, by circular No. 4505 of 10 October 2003, a copy of which is attached, the Ministry of Economy and Finance instructed the various banks and financial institutions in Mali to freeze the assets of individuals and entities on the Committee's list, when necessary.

At the subregional level, Mali participates in the Intergovernmental Action Group against Money-Laundering in Africa (GIABA). The Ministry of Economy and Finance and the Ministry of Internal Security and Civil Protection participate jointly in all coordination meetings of member States.

Lastly, in pursuance of Directive No. 07/2002/CM/UEOMA of the West African Economic and Monetary Union (WAEMU), legislation currently being drafted will inter alia:

- define "know your customer" rules for banks and financial institutions;
- define principles for oversight of certain operations with monitoring thresholds;
- organize processes for detection and reporting of suspicious transactions to competent agencies;
- establish the National Financial Information Processing Unit, as the financial intelligence unit;
- define the framework for international cooperation to combat money-laundering and terrorism financing circuits.

At the regional and international levels, efforts to combat money-laundering and to identify terrorism financing circuits are coordinated by the Central Bank of West African States. This institution deals with the promotion of anti-money-laundering legislation and also participates in the activities of the Intergovernmental Action Group against Money-Laundering in Africa.

11. Banks and financial institutions established in Mali have the updated list of individuals and entities belonging to or associated with the Al-Qaida organization or the Taliban. This list thus enables them to identify these individuals and entities whenever they attempt to engage in banking operations.

In addition, the draft legislation mentioned above should include procedures to enable banks to identify suspicious financial networks.

12. So far, none of the individuals on the Committee's list has been identified as possessing assets in banks in Mali.

13. Consequently, there has been no release of funds and other financial assets or economic resources.

14. At present, Regulation No. R09/98/UEMOA concerning States' external financial relations is the only text in force governing Mali's transactions with the rest of the world. Under this text adopted by the organs of the West African Economic and Monetary Union (WAEMU), transfers abroad from Mali or to Mali from abroad must be justified and go through the Central Bank, approved intermediary banks, the Postal Administration or an authorized intermediary.

In this way, movements of funds between Mali and other countries can be monitored in order to identify any that are suspicious — in other words, unjustified. As a member of WAEMU, Mali complies fully with Directive No. 07/2002/CM/UEMOA on efforts to combat money-laundering. Malian legislation should soon be brought into line with this Directive, which contains provisions on the identification of any suspicious transfer of funds. Offences relating to transfers are punished under Act. 89-13/AN of 14 January 1989 concerning proceedings related to exchange control offences. In addition, articles 298 and 299 of the Act promulgating the Penal Code punish any person found guilty of money-laundering by imprisonment for five to ten years and a fine ranging from 5 million to 50 million CFA francs.

In addition, movements of gold and other precious substances are governed by Decree No. 02/536/P-RM of 3 December 2002 on the collection, processing and marketing of gold and other precious substances or fossils.

Goods worth 914,851,772 CFA francs were confiscated in 2004 from merchants loading them at Bamako-Sénou airport in violation of the law. It must be explained, however, that these individuals have no ties with the Al-Qaida network.

IV. Travel ban

15. The list of individuals and entities concerned has been given both to the territorial units of the national police and gendarmerie and to immigration officials at the land and air frontiers, and instructions have been given to prevent them from entering the national territory.

They were referred to the website on which the updated list is posted. However, it must be said that some of these services do not have adequate electronic monitoring facilities and that they do not all have access to the Internet.

Lastly, in the context of frontier administrative cooperation with neighbouring countries, regular meetings are held between frontier security officials, without prejudice to exchanges of intelligence on the activities of criminal groups, by rapid means of communication (telephone, radio) and organization of joint or simultaneous patrols to ensure the security of common frontier zones, whenever the situation so requires.

At the national level, the Government has adopted restrictive measures for the issuing of visas to nationals of and individuals from certain countries.

With the aim of strengthening control and making documents more secure, the issuing of passports has been computerized and centralized in Bamako.

With the same aim, a civil status project has been set up in the Ministry of Territorial Administration to permit greater control over the management of civil status records.

It should be noted that nationals of the Economic Community of West African States (ECOWAS) do not require a visa to travel within the Community.

At the bilateral level, a visa is not required for travel between Mali and certain countries: Mauritania, Algeria, Morocco, Tunisia and Cameroon.

16. The Committee's list constitutes the "stop list" of the Government of Mali. Mali has not had to draw up any other "stop list".

17. Any new element provided by the Committee is systematically communicated to all territorial units of police and gendarmerie. To date, none of these services have reported the presence of individuals or entities appearing on the Committee's list.

It should, however, be noted that Mali does not have sufficient electronic data-processing means at its entry points.

However, Bamako-Sénou airport has X-ray machines for checking luggage. At the land frontiers, luggage is checked by manual searches.

18. None of the individuals mentioned on the list has been stopped at entry points or along the frontiers of our country.

19. The list of individuals identified has been given to the diplomatic and consular missions of the Republic of Mali. So far, none of these individuals has been identified among applicants for visas to enter Mali.

V. Arms embargo

20. Act. No. 04-050 of 12 November 2004 governing weapons and ammunition in the Republic of Mali formally prohibits the possession of military weapons and ammunition by individuals.

21. Apart from the United Nations resolutions, no national legislative or statutory text on the embargo exists.

22. The Act governing weapons and ammunition in the Republic of Mali establishes the conditions for the manufacture, sale, import, purchase and carrying of smoothe-bore or rifled-bore firearms by individuals.

23. Mali does not manufacture military weapons or ammunition. It therefore does not export weapons from its territory.

VI. Assistance and conclusion

24. Mali would be willing to provide assistance to other States, particularly in the areas of data and information exchange, mutual judicial assistance, extradition, letters rogatory and experience sharing. Similarly, our country would like to receive assistance from other States in these areas.

25. The system is operational. However, because of the size of the territory (an area of 1,241,021 square kilometres, with 7,000 kilometres of frontiers), our country cannot by itself do what is necessary to monitor and secure its frontiers. Consequently, any training and logistics assistance would be invaluable to improve and strengthen national capacities in the context of the implementation of Security Council resolution 1455 (2003).